

EXHIBIT A

INDEX OF MATTERS BEING FILED

PAGE 2: All process in the case.

PAGE 5: Pleadings asserting causes of action, *i.e.*, Plaintiff's Original Petition

PAGE 11: Docket Sheet

PAGE 12: List of all counsel of record, including addresses, telephone numbers, and parties represented.

7018 1830 0001 4427 4297

P2

CAUSE NO. 202101066

RECEIPT NO. 875790

75.00 CTM

TR # 73829400

PLAINTIFF: BAHAM, RONNIE JULES
vs.
DEFENDANT: XTANT MEDICAL HOLDINGS INC

In The 269th
Judicial District Court
of Harris County, Texas
269TH DISTRICT COURT
Houston, TX

CITATION (CERTIFIED)

THE STATE OF TEXAS
County of Harris

TO: XTANT MEDICAL HOLDINGS INC (A FOREIGN CORPORATION) MAY BE SERVED WITH
PROCESS BY SERVING THROUGH ITS AGENT CORPORATION SERVICE COMPANY

26 W SIXTH AVE HELENA MT 59624 - 1691

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on the 8th day of January, 2021, in the above cited cause number
and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a
written answer with the District Clerk who issued this citation by 10:00 a.m on the Monday
next following the expiration of 20 days after you were served this citation and petition,
a default judgment may be taken against you. In addition to filing a written answer with the
clerk, you may be required to make initial disclosures to the other parties of this suit. These
disclosures generally must be made no later than 30 days after you file your answer with the
clerk. Find out more at TexasLawHelp.org.

TO OFFICER SERVING:

This citation was issued on 11th day of January, 2021, under my hand and
seal of said Court.



Marilyn Burgess

Issued at request of:
TRIMBLE, DALE L.
209 SIMONTON
CONROE, TX 77301
Tel: (936) 539-3457
Bar No.: 20222650

MARILYN BURGESS, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Generated By: HALL, JOSHUA EVERETT GLH//11661911

CLERK'S RETURN BY MAILING

Came to hand the _____ day of _____, _____, and executed by
mailing to Defendant certified mail, return receipt requested, restricted delivery, a true
copy of this citation together with an attached copy of
PLAINTIFF'S ORIGINAL PETITION
to the following addressee at address:

ADDRESS

(a) ADDRESSEE

Service was executed in accordance with Rule 106
(2) TRCP, upon the Defendant as evidenced by the
return receipt incorporated herein and attached
hereto at

on _____ day of _____,
by U.S. Postal delivery to _____

This citation was not executed for the following
reason: _____

MARILYN BURGESS, District Clerk
Harris County, TEXAS

By _____, Deputy

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

73829400

EXHIBIT A, PAGE 2

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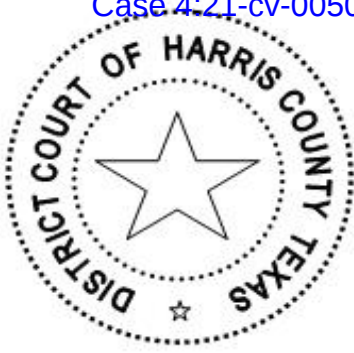
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(2) TRCP, upon the Defendant as evidenced by the
return receipt incorporated herein and attached
hereto at

on _____ day of _____,
by U.S. Postal delivery to _____

This citation was not executed for the following
reason: _____

MARILYN BURGESS, District Clerk
Harris County, TEXAS

By _____, Deputy



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this February 12, 2021

Certified Document Number: 93876798 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

EXHIBIT A, PAGE 4

No. _____

RONNIE JULES BAHAM,
Plaintiff§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

V.

HARRIS COUNTY, TEXAS

XTANT MEDICAL HOLDINGS, INC.,
Defendant

____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Ronnie Jules Baham, plaintiff, complaining of Xtant Medical Holdings, Inc., defendant, and for cause of action would show as follows:

I.

This case should be governed in accordance with the Discovery Control Plan found in Rule 190 of the Texas Rules of Civil Procedure (Level 3).

II.

Ronnie Jules Baham ("Baham") is an individual residing in Highlands, Harris County, Texas.

Xtant Medical Holdings, Inc. ("Xtant") is a foreign corporation based in Belgrade, Montana, and is doing business in the State of Texas. Xtant may be served with process through its agent for process, Corporation Service Company, 26 W. Sixth Ave., Helena, MT 59624-1691 by certified mail, return receipt requested.

III.

In April 18, 2018, Baham underwent an revision anterior cervical discectomy and fusion (ACDF) at his cervical spine C6-7 along with placement of PEEK cages with Xtant allograft at C3-4 and C6-7 and placement of screws and plate from C3-7. This procedure was performed by Dr. Kade T. Huntsman, M.D., Salt Lake Orthopaedic Clinic, Salt Lake City, Utah. Baham had undergone a previous urgent ACDF following a bus accident in September 2017, but had suffered

ongoing problems since that surgery. Upon evaluation of his condition by Dr. Huntsman, Baham was found to have severe stenosis at C3-4 above this fusion and stenosis with possible pseudoarthrosis at C4-7. Dr. Huntsman recommended surgery to perform the second ACDF.

IV.

The hardware from C4-7 (plate and screws) were removed from Baham's cervical spine at C4-7. Dr. Huntsman then performed a complete C3-4 discectomy, where there was a significant amount of stenosis at this level. After the endplates were prepared and a takedown of the posterior longitudinal ligament and foraminotomies were performed, a PEEK cage packed with Xtant allograft was then placed. Dr. Huntsman then went to the C4-5 level, explored the fusion there, and found it to be solid. He evaluated the C5-6 level as well and found it to be solid.

V.

At the C6-7 level, Baham's fusion was not complete and Dr. Huntsman decided to revise this level. The previous cage was removed and a revision ACDF was performed, preparing the endplates with a high speed bur. A posterior procedure longitudinal ligament and foraminotomies were performed. Then Dr. Huntsman placed an X-spine plate packed with X-tant allograft. After the surgical area was copiously irrigated, an X-spine plate was applied in screws in C3, C4, C5, C6 and C7. Dr. Huntsman confirmed the plate and screws were well-positioned and locked down with a locking mechanism.

VI.

The materials utilized by Dr. Huntsman during Baham's April 18, 2018, ACDF were manufactured, marketed, and sold by Xtant for the purpose of use in medical procedures similar to that which Baham underwent. The materials, particularly the screws, were intended to stabilize the injured area (C4-7) that required surgery in the case of Baham.

VII.

Several months after the April 18, 2018, surgery occurred, Baham began to experience pain and other physical problems with his cervical spine. X-rays taken January 10, 2019, at the request of Dr. Huntsman determined there had been a mechanical breakdown of the internal fixation device, particularly a broken screw at C7. This broken screw, which had been manufactured, marketed and sold by Xtant, had delayed the union following the ACDF that Baham had undergone. Baham would have to undergo a third major neck surgery.

VIII.

As a result of Xtant's failed and broken screw that was affixed to Baham's cervical spine at C7, on May 29, 2019, Baham underwent a hardware removal at C3-7; revised ACDF at C6-7; placement of X-spine PEEK cages packed with Xtant allograft at C6-7; and anterior plate fixation with X-spine plating system at C5-7.

IX.

The occurrence made the basis of this suit, as referenced herein, and the resulting injuries and damages incurred by Baham were proximately caused by the defective design and manufacture of the Xtant screw that failed and proximately caused the injuries and damages to Baham.

X.

Baham has sustained severe bodily injuries to his neck, upper extremities and body in general. The injuries sustained by Baham are permanent in nature, and they have had a serious effect on his well being. Baham has also suffered physical and mental pain, suffering, anguish, impairment and disfigurement, and in all reasonable probability, he will continue to suffer in this way into the future.

XI.

As a further result of the injuries he has sustained, Baham has incurred expenses for medical care and attention. These expenses were incurred for necessary care and treatment of the injuries resulting from the Xtant screw failure. The charges he incurred are reasonable and were the usual and customary charges made for such services in Harris County, Texas, where Baham resides. As a further result of the injuries sustained by Baham, reasonable probability exists he will require further medical care and attention for these injuries, and as a result, he will incur future reasonable and necessary expenses for his medical care and attention.

. **WHEREFORE, PREMISES CONSIDERED**, Ronnie Jules Baham, plaintiff, requests Xtant Medical Holdings, Inc., defendant, be cited to appear and answer, and that upon final trial, he have:

- a. Judgment against Xtant Medical Holdings, Inc., for the of FIVE HUNDRED THOUSAND and NO/100 DOLLARS (\$500.000.00), which is a sum in excess of the minimal jurisdictional limits of the Court;
- b. Pre-judgment and post-judgment interest on damages assessed against the defendant at the prescribed legal rate;
- c. Costs of court; and
- d. Such other and further relief, at law or in equity, to which he may be justly entitled.

Respectfully submitted,

THE TRIMBLE FIRM, P.L.L.C.

Dale L. Trimble

By _____

Dale L. Trimble

State Bar No. 20222650

209 Simonton Street

Conroe, Texas 77301

Telephone: (936) 441-3456

(936) 539-3457

Telecopier: (936) 539-3464

Email: eservice@trimblefirm.com

Counsel for Plaintiff, Ronnie Jules Baham



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this February 12, 2021

Certified Document Number: 93840040 Total Pages: 5

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

2021-01066

COURT: 269th

FILED DATE: 1/8/2021

CASE TYPE: Product Liability - Other



BAHAM, RONNIE JULES

Attorney: TRIMBLE, DALE L.

VS.

XTANT MEDICAL HOLDINGS INC

Docket Sheet Entries

Date

Comment

EXHIBIT A, PAGE 11

Counsel of Record:

1. Attorney(s) for Plaintiff Ronnie Jules Baham

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